

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6991 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgement?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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HIRALAL GANGARAM

Versus

CHIEF SECURITY COMMISSIONER & INSPECTOR GENERAL

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Appearance:

MR GR MALHOTRA for Petitioner  
No one appears on behalf of the respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/12/1999

ORAL JUDGEMENT

The petitioner's case is that he was appointed in  
the Railway Protection Force as a Constable on 27th June  
1944 and retired on 10th October 1976 on attaining the  
age of superannuation from the post of Rakshak in the pay  
scale of Rs.200-240. At the time of his retirement, his  
pay was Rs.240/-. The petitioner has stated that the  
Ministry of Railways had issued a Circular dated 27th  
January 1998 for grant of Ex-gratia payment to surviving

SRPF (C) retirees during the period from 1.4.1957 to 31.12.1985 at the rate of Rs.600/- per month with effect from 1st November 1997 subject to the condition that such persons should have rendered atleast 20 years of continuous service prior to superannuation so as to be eligible for the Ex-gratia payment with Dearness relief at the rate of 5% with effect from 1.11.1997. A copy of this Circular dated 27th January 1998 as issued by the Government of India, Ministry of Railways, Railway Board has been placed on record as Annexure.B with the petition. The petitioner has submitted that he applied for this Ex-gratia payment in the prescribed Form of the application on 7.9.1998 which was duly complete in all respects along with SRPF Account No.164089 and the name of the authorised Bank, i.e. Bank of India, Kaligam with S.B.No. 3350 for Ex-gratia payment. However, the payment was not made to the petitioner. The petitioner, therefore, sent a registered notice dated 19th June 1999 through his Advocate besides All India Retired Railwaymen Federation Letter dt. 29.10.98 and yet neither any reply was given nor any relief was granted and therefore, the present petition dated 10th September 1999 was presented in this Court on 11th September 1999 for grant of Ex-gratia payment at the rate of Rs.600/- per month with effect from 1.11.1997 and the Dearness relief. In short, the petition is for implementation of the Railway Board's Circular dated 27th January 1998, Annexure.B with the petition.

2. When the matter came up for hearing on 15th September 1999, notice returnable for 8th October 1999 was given. On 8th October 1999, it was recorded that respondent no.2 has been served but the notice of respondent no.1 had not been received. The notices were, therefore, awaited and the matter was posted for 25th October 1999. Thereafter when the matter came up before the Court on 19th November 1999, Mr.J.C.Sheth entered appearance on behalf of the respondent nos.1 and 2. After hearing both the sides, Rule was issued and Mr.Sheth waived the service and sought three days time to file the return. However, time was granted upto 30th November 1999 for filing the return and the matter was posted for today, i.e. 6th December 1999 for final disposal in the first Board. No return has been filed on behalf of the respondents nor any one has appeared on behalf of the respondents although the name of Mr.J.C.Sheth has been shown in the Board against this item for final hearing.

3. Thus, the averments made by the petitioner remain uncontroverted and there appears no reason to deprive the

petitioner who retired as a Constable after rendering service for more than 20 years prior to 10th October 1976, of the benefits of the Railway Board's Circular dated 27th January 1998. It appears that for no reason or lawful justification, the respondents have not passed appropriate orders on petitioner's application despite the notice dated 19th June 1999 and thus without any lawful justification, the petitioner has been deprived of the benefits since 1.11.1997 as contemplated in the Railway Board's Circular dated 27th January 1998 for which the petitioner is found to be duly entitled.

4. Accordingly, this petition succeeds. The respondents are directed to make the payment of Ex-gratia amount of Rs.600/- (Rupees six hundred only) per month to the petitioner with effect from 1st November 1997 and the Dearness relief at the rate of 5% with effect from 1.11.1997. If there has been any increase in the Dearness relief, the same shall also be paid to the petitioner accordingly. In the facts and circumstances, it is further ordered that in case the reliefs as aforesaid are not made available into the hands of the petitioner within a period of six weeks from the date the certified copy of this order is produced before the respondents, the respondents will also be under an obligation to pay interest on the due amount at the rate of 12% per annum to the petitioner w.e.f. the date of expiry of six weeks from the date on which the certified copy of this order is received by the respondents. This Special Civil Application is accordingly allowed and the Rule is made absolute. No order as to costs.

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Sreeram.